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Report of the International Court of Justice
Oceans and the law of the sea

Letter dated 29 February 2008 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General

I have the honour to write to you in order to transmit the original text of the note of 25 February 2008 signed by the Minister for Foreign Affairs (see annex), containing the reply of the Government of the Republic of Colombia to the note sent to you by the President of Nicaragua on 11 February.

I should be grateful if you would take the necessary steps to have the attached note circulated as a document of the General Assembly, under agenda items 73 and 77.

(Signed) Claudia Blum de Barberi
Ambassador
Permanent Representative



Annex to the letter dated 29 February 2008 from the Permanent Representative of Colombia to the United Nations addressed to the Secretary-General

I have the honour to write to you with respect to the communication signed by the President of Nicaragua, Daniel Ortega, in reference to the judgment on preliminary objections handed down by the International Court of Justice on 13 December 2007 in the case concerning the Territorial and Maritime Dispute (Nicaragua v. Colombia), in which my country has been involved since 6 December 2001 and will continue to be in accordance with the provisions of the Statute of the Court and the Rules of Court.

In its judgment on preliminary objections delivered on 13 December 2007, the Court found that despite Nicaragua's claims to the contrary, the Esguerra-Bárceñas Treaty of 1928 between Colombia and Nicaragua, in which Nicaragua recognized the sovereignty of Colombia over the Archipelago of San Andrés and Providencia, settled the matter of sovereignty over the islands of San Andrés, Providencia and Santa Catalina and that there was no extant legal dispute between the parties on that question.

The Court further found that the aforementioned Treaty and its Protocol of Exchange of Ratifications did not establish the general delimitation of the maritime boundary between the two States. That delimitation would be a matter for the Court to define in the proceedings on the merits.

Ever since the Court delivered its Judgment, and without prejudice to the rights of Colombia in the maritime areas belonging to the Archipelago of San Andrés and Providencia, Colombia has been careful to do no more than maintain the status quo existing on 6 December 2001, the date on which Nicaragua filed its Application instituting proceedings in the International Court of Justice.

In this connection, Colombia has made every effort to ensure that ships flying its flag do not engage in fishing or other activities west of the 82nd meridian. In turn, it has continued to take routine measures designed to ensure that any fishing vessel that engages in activities to the east of that line has been licensed to do so by the competent Colombian authorities.

In a matter of this kind, the current practice under international law is to maintain the status quo until such time as a final judgment has been delivered by the Court.

After an extended meeting on 11 February 2008 between the President of the Court and the agents of the parties, the International Court of Justice fixed 11 November 2008 as the time limit for the filing of the Colombian Counter-Memorial. At that time, Colombia will set out its position with regard to the maritime boundary between the two States.

The Government of Colombia has refrained from responding to the offensive pronouncements of President Daniel Ortega and other Nicaraguan authorities, who have also persisted in encouraging their fishing vessels to carry out their activities east of the 82nd meridian in areas in which they have never done so in the 187 years of Nicaragua's existence as an independent nation and over which Colombia has peacefully and continuously exercised its maritime jurisdiction for many years.

In fact, in outright contravention of the Court's judgment, the Government of Nicaragua continues to unilaterally refer to these areas as Nicaraguan and to reiterate its claims to the islands of San Andrés, Providencia and Santa Catalina — which have already been definitively rejected by the Court.

In short, Nicaragua continues to dispute the core issue on which the Court has indeed delivered a judgment — the sovereignty of Colombia over the islands of San Andrés, Providencia and Santa Catalina and, at the same time, is falsely accusing Colombia of violating a maritime boundary which the Court has yet to delimit.

(Signed) **Fernando Araújo Perdomo**
Minister for Foreign Affairs